

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

WALT FAMULAR, HOWARD FRANK,
NANCY FURLONG, JOHN NEWMAN,
SHERRY ADAMS, RICHARD SPAHR,
WILLIAM DAVID SEAY, DARLA
MOULTON, and KARIN LEMAY, on behalf
of themselves and all others similarly situated,

Plaintiffs,

v.

WHIRLPOOL CORPORATION, LOWE'S
HOME CENTERS, LLC, HOME DEPOT
U.S.A., INC., and SEARS HOLDINGS
CORPORATION,

Defendants.

CASE NO. 7:16-cv-00944-VLB

**DEFENDANTS' NOTICE OF MOTION
AND MOTION TO DISMISS
PLAINTIFFS' FIRST AMENDED
CLASS ACTION COMPLAINT**

TO PLAINTIFFS AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that Defendants Whirlpool Corporation ("Whirlpool"), Lowe's Home Centers, LLC ("Lowe's"), and Sears Holding Corporation ("Sears") (collectively "Defendants") respectfully move to dismiss Plaintiffs' First Amended Class Action Complaint ("Amended Complaint") under Federal Rules of Civil Procedure 12(b)(2) and 12(b)(6). In support, Defendants state:

1. This Court lacks personal jurisdiction over Lowe's and Sear's, and it lacks personal jurisdiction over Whirlpool for the claims pled by Plaintiffs Howard Frank, Nancy Furlong, John Newman, Sherry Adams, Richard Spahr, William David Seay, Darla Moulton, and Karin Lemay.
2. All of Plaintiffs' claims are time-barred by the applicable statutes of limitations.
3. Several of Plaintiffs' claims must be dismissed for failure to state a claim upon which relief may be granted.

For these reasons, and the reasons identified in Defendants' Memorandum of Law in Support of Motion to Dismiss Plaintiffs' First Amended Class Action Complaint, Defendants request that this Court grant Defendants' motion and dismiss the Amended Complaint in its entirety and with prejudice.

Dated: May 12, 2016

Respectfully submitted,

s/ Galen D. Bellamy

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LLC, and Sears Holdings Corporation